



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2014 REGULAR SESSION

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HOUSE BILL NO. 415

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MONDAY, MARCH 10, 2014

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 7, 2014  
4:09pm  
ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

1 AN ACT relating to alcohol regulatory fees.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 243.075 is amended to read as follows:

4 (1) **(a)** Notwithstanding the provisions of KRS 243.060 and 243.070, in any city of  
 5 the third or fourth class **in which the discontinuance of prohibition is**  
 6 **effective by virtue of a local option**~~[that is wet or moist through an]~~ election  
 7 held under KRS Chapter 242~~[242.125]~~, the governing body of the city and the  
 8 governing body of the county containing a city of the third or fourth class is  
 9 authorized to impose a regulatory license fee upon the gross receipts **of the**  
 10 **sale of alcoholic beverages** of each establishment therein licensed to sell  
 11 alcoholic beverages.

12 **(b)** The regulatory license fee may be levied at the beginning of each budget  
 13 period at a percentage rate as shall be reasonably estimated to fully reimburse  
 14 the local government for the estimated costs of any additional policing,  
 15 regulatory, or administrative expenses related to the sale of alcoholic  
 16 beverages in the city and county.

17 **(c)** The regulatory license fee shall be in addition to any other taxes, fees, or  
 18 licenses permitted by law, except:

19 ~~1.[(a)]~~ A credit against a regulatory license fee in a city shall be allowed  
 20 in an amount equal to any licenses or fees imposed by the city pursuant  
 21 to KRS 243.070; and

22 ~~2.[(b)]~~ In a county in which the city and county both levy a regulatory  
 23 license fee, the county license fee shall only be applicable outside the  
 24 jurisdictional boundaries of those cities which levy a license fee.

25 (2) **(a)** Notwithstanding any limitations imposed on the city's or county's taxing or  
 26 licensing power by KRS 243.060 and 243.070, a city or county that **is moist**  
 27 **through a local option election held under KRS 242.1244, or that issues**

1 licenses~~[qualifies]~~ under KRS 243.072 may by ordinance impose a regulatory  
 2 license fee upon the gross receipts of the sale of alcoholic beverages of each  
 3 establishment located therein and licensed to sell distilled spirits, wine, or  
 4 malt beverages by the drink for consumption on the premises.

5 (b) The regulatory license fee may be levied annually at a rate as shall be  
 6 reasonably estimated to fully reimburse the city or county for the estimated  
 7 costs for any additional policing, regulatory, or administrative related  
 8 expenses.

9 (c) The regulatory license fee shall be in addition to any other taxes, fees, or  
 10 licenses permitted by law, but a credit against the fee shall be allowed in an  
 11 amount equal to any licenses or fees imposed by the city or county pursuant to  
 12 KRS 243.060 or KRS 243.070.

13 (d) In a county in which the city and county both levy a regulatory license fee,  
 14 the county license fee shall only be applicable outside the jurisdictional  
 15 boundaries of those cities which levy a license fee.

16 (3) (a) For any election held after the effective date of this Act, any new fee  
 17 authorized under subsection (1) or (2) of this section shall be enacted by the  
 18 city or county no later than two (2) years from the date of the local option  
 19 election held under KRS Chapter 242.

20 (b) For any new ordinance enacted pursuant to KRS 243.072 after the effective  
 21 date of this Act, the fee authorized by subsection (2) of this section shall be  
 22 enacted within two (2) years of the date of the enactment of an ordinance  
 23 pursuant to KRS 243.072.

24 (4) After the effective date of this Act, any fee authorized under subsections (1) and  
 25 (2) of this section shall be established at a rate that will generate revenue that  
 26 does not exceed the total of the reasonable expenses actually incurred by the city  
 27 or county in the immediately previous fiscal year for the additional cost, as

1 demonstrated by reasonable evidence, of:

2 (a) Policing;

3 (b) Regulation; and

4 (c) Administration;

5 as a result of the sale of alcoholic beverages within the city or county.

6 (5) (a) The Kentucky Department of Alcoholic Beverage Control shall promulgate  
 7 administrative regulations which set forth the process by which a city or  
 8 county, in the first year following the discontinuance of prohibition, may  
 9 estimate any additional policing, regulation, and administrative expenses by  
 10 a city or county directly and solely related to the discontinuance of  
 11 prohibition. This subsection shall apply to any discontinuance of  
 12 prohibition occurring after the promulgation of regulations required by this  
 13 subsection.

14 (b) After the first year, the regulatory license fee for each subsequent year shall  
 15 conform to the requirements of subsection (4) of this section.

16 (6) The revenue received from the imposition of the regulatory license fee authorized  
 17 under subsections (1) and (2) of this section shall be:

18 (a) Deposited into a segregated fund of the city or county;

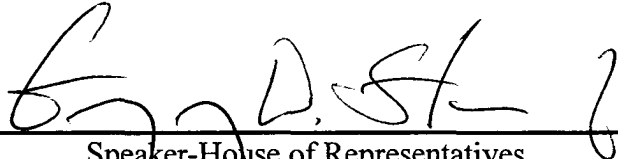
19 (b) Spent only in accordance with the requirements of subsections (1) and (2)  
 20 of this section; and


21 (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810,  
 22 and 91A.040.


23 (7) Any city or county found by a court to have violated the provisions of this section  
 24 shall:

25 (a) Provide a refund as determined by the court to any licensee that has been  
 26 harmed in an amount equal to its prorated portion of the excess revenues  
 27 collected by the city or county that are directly attributable to a violation

- 1       occurring after the effective date of this Act;
- 2       (b) Be responsible for the payment of the reasonable attorney fees directly  
3       incurred by a party to a litigation in an amount ordered by the court upon  
4       its finding of an intentional and willful violation of this section by a city or  
5       county occurring after the effective date of this Act; and
- 6       (c) Upon the finding by a court of a second intentional and willful violation of  
7       the provisions of this section, lose the ability to impose the regulatory fee  
8       provided by this section for a period of five (5) years and, upon the finding  
9       by a court of a third intentional and willful violation, forfeit the right to  
10       impose the regulatory license fee authorized by this section.
- 11       (8) Any party bringing suit against a city or county for an alleged violation of this  
12       section occurring after the effective date of this Act shall be responsible for the  
13       payment of the reasonable attorney fees of the city or county in an amount  
14       determined by the court upon a finding by the court that the city or county did not  
15       violate this section.

  
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Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 4-7-14